

Court of Appeals, State of Michigan

ORDER

James Douglas v Allstate Ins Co

Docket No. 280718

LC No. 05-000596-NF

Jane E. Markey
Presiding Judge

William B. Murphy

Richard A. Bandstra
Judges

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

Bandstra, J. would state pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, I would VACATE the circuit court's September 4, 2007 order denying defendant Allstate Ins Co's motion for partial summary disposition of plaintiff's claim for attendant care expenses, and REMAND this matter to the circuit court with direction to enter an order granting that motion. The tasks listed in plaintiff's wife's affidavit of services fall into two categories. They are either ordinary household tasks like cooking meals, doing laundry, and paying bills, which are not compensable under MCL 500.3107. *Manley v DAIE*, 127 Mich App 444, 453; 339 NW2d 205 (1983), rev in part on other grounds, 425 Mich 140; 388 NW2d 316 (1986) ("services performed by close relatives other than the performance of ordinary household tasks can be 'allowable expenses.'") (Emphasis added). Or they are services such as maintaining the house, fixing the washing machine, etc., which under *Hamilton v AAA Michigan*, 248 Mich App 535, 542, n 1; 639 NW2d 837 (2001), citing *Botsford General Hosp v Citizens Ins Co*, 195 Mich App 127; 489 NW2d 137 (1992), are properly characterized as replacement services. And under the plain language of MCL 500.3107(1)(c), recovery for such services are limited to those "performed during the first 3 years after the date of the accident." Therefore, plaintiff's claim for services performed since May 31, 2004 is barred under the statute, and defendant was entitled to judgment as a matter of law.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 15 2008

Date

Sandra Schultz Mengel
Chief Clerk